IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 10.8.2021.

CORAM

THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.Nos.2531 & 2532 of 2021
and
W.M.P.No.2860 of 2021

1. Haji Sumar
2. Amin Kuddus ... Petitioners in W.P.2531/2021

Bilal Ismail ... Petitioner in W.P.2532/2021

vs.

1. The Tahsildar,
Maduravoyal Taluk,
Maduravoyal, Tiruvallur District.

2. The Assistant Commissioner of
Urban Land Tax,
Kundrathur, Office at
No.153, Karunigar Street,
Adambakkam, Chennai 600 088. ...Respondents in both cases

Writ Petition No.2531 of 2021 filed under Article 226 of the Constitution of India seeking to issue a writ of mandamus directing the 1st respondent to issue patta for the plot bearing Nos.16, 17 and 18 in Survey Nos.14/2 situated at Valasaravakkam Village, previously Saidapet Taluk, presently Maduravoyal Taluk, Tiruvallur District to the petitioners without insisting upon the No Objection Certificate (NOC) from the 2nd respondent within the time as stipulated by this court, after duly considering the petitioners' representation dated 12.12.2020.

Writ Petition No.2532 of 2021 filed under Article 226 of the Constitution of India seeking to issue a writ of mandamus directing the 1st respondent to issue patta for the plot bearing Nos.5, 6 and 7 comprised in Survey Nos.14/2 situated at Valasaravakkam Village, previously Saidapet Taluk, presently Maduravoyal Taluk, Tiruvallur District to the petitioners without insisting upon the No Objection Certificate (NOC) from the 2nd respondent within the time as stipulated by this court, after duly considering the petitioners' representation dated 12.12.2020.

For Petitioners in both Petitioner : Mr.R.Bharathkumar

For Respondents in both Petitioner : Mr.Yogesh Kannadasan, Government Advocate

ORDER

The writ petition has been filed seeking a direction to the first respondent viz., Tahsildar, Maduravoyal Taluk, Tiruvallur District to grant patta for the plot bearing Nos.16, 17 and 18 in S.No.14/2 at Valasaravakkam Village in Tiruvallur District without insisting upon No Objection Certificate from the second respondent viz., the Assistant Commissioner of Urban Land Tax, Chennai after considering the representation given by the petitioner on 12.12.2020.

2. It must be stated that the writ petitioner had been filed with an innocuous prayer calling upon the court to consider to issue a mandamus to the first respondent to consider the representation dated 12.12.2020.

3. According to the petitioner, a large extent of lands in S.N.14/2 and 15/3 at Valasaravakkam Village were formed as a Housing lay out. The lands were divided as plots and the plots were sold to various third parties and plots bearing Nos.16, 17 and 18 were purchased by the father of the petitioner. The said plots measured 5765 sqft in S.No.14/2. He had purchased vide Sale Deed dated 29.2.1996 under a registered Document No.1115/1996 from M/s.South India Feeds, a registered Partnership Firm.

4. Claiming title to the said plots, the petitioner submitted a representation dated 12.12.2020 seeking patta without insisting for No Objection Certificate from the second respondent, the Assistant Commissioner of Urban Land Tax.

5. Counter had been filed on behalf of the respondents projecting a totally different picture. In the counter affidavit filed by the second respondent viz., Assistant Commissioner of Urban Land Tax, Chennai, it had been very specifically stated that one Kandasamy Naicker owned 6627 sqft of urban land in S.No.14/2 Valasaravakkam Village. He did not file Returns under Section 7(1) of the Act and therefore, notice under Section 7(2) of the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978 was issued on 5.8.1988. Thereafter,

notice under section 9(1) of the Act was issued on 20.11.1990. The land was inspected by the Deputy Tahsildar on 30.10.1990 and it was found that the land was vacant. On that ground, Order under Section 9(5) was issued by the competent authority on 31.1.1991. Final statement under Section 10(1) of the Act was issued on 5.6.1991. The possession of the excess vacant land was handed over to the revenue authorities on 18.5.1993. Mutations were also carried out in the revenue records. Notice under section 12(7) of the Act was issued on 8.6.1994. Order under Section 12(6) was issued on 3.8.1994. The compensation was fixed as Rs.3050/-. Since the urban land owner did not receive the amount, it was kept in Revenue Deposit Challan No.439 dated 13.9.1995. It was also stated that the acquisition proceedings are saved under Section 3(1))(a) of the repeal Act and it was not covered under Section 4 of Repeal Act, 20/1989. The petitioner had purchased the land in the year 1996 and under Section 6 of the Tamil Nadu Urban Land (Ceiling & Regulation) Act, 1978, the sale of excess vacant land can be declared as null and void. The petitioners have no locus standi to file the writ petitions.

6. The respondents have placed reliance on a judgment dated 21.10.2016 in W.A.No.600 of 2016 wherein it has been held as under:-

> "6. Having dealt with all the contentions raised by learned counsel for the writ petitioner/appellant and the learned Additional Advocate General for the respondents, the learned Judge dismissed the writ petition as devoid of merits and on laches since the writ petitioner approached the Court after a lapse of 25 years.
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> 7. Though the learned counsel appearing for the appellant has reiterated similar contentions that were raised before the learned single Judge, we do not find any considerable force therein, in order to take different view. It is not in dispute that the appellant, having made so-called purchase from the erstwhile owner, did not make necessary entries in the revenue records and village accounts as regards his purchase and no steps were taken by him, to change the ownership of the land in his name in village and taluk accounts. It is pertinent to note that the land ceiling proceedings were initiated during the year 1997 and ended in 1998 and it is the case of the appellant that he had frequently visited the subject property during the intervals, but it is surprising to know that he was not aware of the ceiling proceedings when the notices under the provisions of the Act, were served by way of

affixture at the subject property. We do not find any irregularity in conducting the ceiling proceedings by the respondents since as per the revenue records, on the date of acquisition, the original land owner of the property was shown as D.Sivasubramanian and there was no reference about the name of the appellant herein in any revenue records, thereby, it is incumbent on the part of the respondents to initiate ceiling proceedings against said D.Sivasubramanniann only, which they had rightly done. It is settled law that mere based upon a registered sale deed, a person cannot claim title over the property. In this case, based on the registered sale deed alone, the appellant made his claim and approached this Court nearly after a lapse of 25 years, that too without even taking any steps to change ownership in his name in respect of the subject property in the relevant revenue records. In fact, the appellant, after coming to know that the land was acquired under the Act, he applied in the year 2010 for regularization of the property under the innocent buyers scheme, without rising any protest to the ceiling proceedings. However, after knowing that the said scheme was withheld, he approached the Court by way of a writ petition, by rising baseless contentions, pointing out irregularities that were said to have committed by the respondents, which, in our view, do not have any merit. Further, after following the procedure contemplated under the Act, the possession of the land was taken by the respondents. A notification under Section 11(1) of 9 the Act was published in Tamil Nadu Government Gazette, calling for objections from the interested persons if any, however, as there were no objections were received from any persons, the land was acquired and vested with the Government. It is to be noted that it was also declared in the said notification that any sale made after 3.8.1976 in the urban land which was acquired under the Ceiling Act, are null and void. Admittedly, the sale deed of the appellant pertains to the year 1988 since registered on 16.11.1988 in respect of the property, which was declared as urban land and therefore, based on mere sale deed, the appellant cannot seek any relief."

7. The learned counsel for the petitioner also placed reliance on the order in W.P.No.12513 of 2015 in M.P.Rajendran and another vs. State of Tamil Nadu and 3 others, wherein, it is claimed that, with respect to an adjacent land, a learned

Single Judge of this court had granted the relief and directed the respondents to issue patta.

8. The specific finding of the learned Single Judge is that the Principal Act was repealed vide repeal Act 20/1999. However, in the facts and circumstances of the case, it had been very specifically stated that acquisition of the excess land Act 1995 proceedings had been initiated and had been taken possession. The revenue records have also been mutated and acquisition has also been notified to the petitioners. Knowing all these proceedings, the petitioners had purchased the land only in the year 1996.

9. Therefore, the petitioner cannot claim ignorance and plead innocence and seek indulgence of this court. In the earlier case, which the petitioner cited, a categorical statement had been made that the proceedings could not be proceeded further in view of other circumstances viz, that after the order was passed by the Appellate Tribunal in T.R.P.No.406 of 1999 setting aside the allotment issued in the name of Angeline Royappa, the entire proceedings were quashed. The petitioners have not pleaded to that extent in the writ petition also.

10. The petitioners, as stated above, innocuously claimed grant of patta which cannot be granted. Therefore, I am not able to accede to the relief. The writ petitions are dismissed. No costs. The connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ssk.

To

1. The Tahsildar,
Maduravoyal Taluk,
Maduravoyal,
Tiruvallur District.

2. The Assistant Commissioner of
Urban Land Tax,
Kundrathur, Office at
No.153, Karunigar Street,
Adambakkam, Chennai 600 088.

+2cc to Mr.R.Bharathkumar, Advocate, S.R.No.39828,39829
+1cc to the Government Pleader, S.R.No.40046

W.P.Nos.2531 & 2532 of 2021 and
W.M.P.No.2860 of 2021

VG-II(CO)
CT(17/09/2021)